TABLE OF COMPARISON

Instant Complaint [full text] (R. 2a-9a)	*Rieser-Koblitz Complaint* [excerpts] (R. 28a-40a)
FIRST: That the plaintiff is owner and holder of $50,000.00 principal amount of bonds of The Alton Railroad Company and brings this action on behalf of himself and on behalf of the other owners of bonds of The Alton Railroad Company.	4. The plaintiffs are the bona fide owners and holders of Alton Bonds in the following principal amounts: Plaintiff — Principal Amount Norvin Rieser ..... $20,000 Milton S. Koblitz ..... 50,000 3. This is a representative class action brought on behalf and for the benefit of the owners and holders of Alton Bonds.
SECOND: That the defendant is and at all times hereinafter mentioned was a railroad corporation, duly organized and existing and consolidated under the laws of the States of Maryland and Virginia and at all times hereinafter mentioned, the defendant herein operated and still operates a system of railroads in the United States.	1. The defendant is, and at all the times hereinafter mentioned was, a railroad corporation organized, existing and consolidated under the laws of the States of Maryland and Virginia.
THIRD: That at all times between July 18, 1931 and May 31, 1947, The Alton Railroad Company, an Illinois railroad corporation, hereinafter called "Alton" was the obligor on $45,350,000., principal amount of a 3% refunding mortgage bond of the Chicago and Alton Railroad Company, hereinafter called Alton Bonds.	2. At all times between July 18, 1931 and May 31, 1947, The Alton Railroad Company, an Illinois railroad corporation (hereinafter called "Alton"), was the obligor on $45,350,000. principal amount of The Chicago and Alton Railroad Company 3% Refunding Mortgage Bonds (hereinafter called "Alton Bonds") which were secured by a first mortgage upon all of the assets of Alton.
FOURTH: That on or about January 7th, 1931, the defendant acquired and became the owner	5. On or about January 7, 1931, the defendant acquired and became the owner of all of the

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of all of the issued and outstanding capital stock of Alton and continued to own such stock until on or about May 31st, 1947.	outstanding capital stock of Alton and continued to own said stock until after November 25, 1942.
FIFTH: That on or about January 7th, 1931, Alton was an operating railroad with a substantial complement of rolling stock and equipment, profitable traffic interchange agreements and arrangements with certain railroads, beneficial contracts and arrangements with Western Union Telegraph Company, The Pullman Company, Fruit Growers Express Company and others, and had its own traffic solicitation department which concentrated its efforts on the promotion of business over the Alton lines or Alton connections and it had the benefit of a close relationship with suppliers of its requirements of fuel and other materials and supplies who in turn regularly and systematically favored Alton with substantial freight.	7. At the time the defendant obtained control of Alton as aforesaid, Alton was an operating railroad with a substantial complement of rolling stock and equipment, profitable traffic interchange agreements and arrangements with certain railroads, beneficial contracts and arrangements with Western Union Telegraph Company, The Pullman Company, Fruit Growers Express Company and others, and having its own traffic solicitation department which concentrated its efforts on the promotion of business over the Alton lines or Alton connections. In addition, Alton had the benefit of a close relationship with suppliers of its requirements of fuel and other materials and supplies who in turn regularly and systematically favored Alton with substantial freight traffic.
SIXTH: That upon acquiring the stock of Alton, as aforesaid, the defendant and Alton entered upon a design, scheme and plan to defraud the creditors of Alton, including plaintiff and other holders of Alton Bonds.	22. The acts and transactions complained of also constitute a fraud practised by the defendant upon Alton and the holders of Alton Bonds, including the plaintiffs.
SEVENTH: Pursuant to said design, plan and scheme, Alton elected as officers and directors of Alton, servants and employees of the defendant and Alton became a part of, an instrumentality	6. During the entire period from July 18, 1931 to November 25, 1942, the defendant nominated and elected each and every director of Alton and designated each and every executive and

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and agency of the defendant's railroad system.	policy-making officer of Alton, and such directors and officers functioned and acted in respect of the affairs of Alton solely as servants and agents of the defendant and in accordance with directions given and policies formulated by the defendant. . . .
EIGHTH: That in furtherance of the plan, scheme and design as aforesaid, the defendant and Alton committed and performed the following acts and deeds:	8. In violation of its fiduciary duties, . . . , the defendant, between July 18, 1931 and November 25, 1942, caused loss, damage and injury to . . . the holders of Alton Bonds . . . and unjust enrichment of itself, by each and all of the following acts:
(a). The defendant with the approval, consent and cooperation of Alton, used, employed and appropriated Alton's property and equipment to its own use without paying therefor a fair and reasonable compensation;	(c) During said period, the defendant used Alton's tracks and equipment for its own benefit without paying Alton the reasonable value of the use thereof.
(b). Alton diverted to the defendant's lines traffic, which in regular course, would have moved over Alton's lines if Alton were operated as an independent railroad and Alton hauled such traffic only as could not be hauled over defendant's lines with the result that income which would otherwise have been received by Alton, was diverted to the defendant;	(a) . . . defendant caused traffic which would normally have moved over Alton's lines to be diverted to defendant's lines, and increased hauls over its own lines with consequent decreases in hauls over Alton's lines.
(c). Alton interchanged traffic with lines chosen for it by the defendant rather than with lines with which Alton had previously maintained profitable relations and good will and by reason thereof, there was a loss of in-	(a) . . . defendant caused Alton to interchange traffic with lines chosen by defendant rather than with lines with which Alton had previously maintained profitable relations and good will. . . . By reason of the acts recited in this

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come to Alton and an increase of income to the defendant;	paragraph the defendant was unjustly enriched and Alton and the holders of Alton Bonds, including the plaintiffs, were damaged. . . .
(d). The traffic solicitation department of Alton was eliminated and there was set up a consolidated traffic solicitation department and through said solicitation department, there was diverted to the defendant's lines traffic and income which Alton would have received if Alton had been maintained as a separate and independent railroad.	(a) . . . defendant . . . eliminated the traffic solicitation department of Alton and set up a consolidated traffic solicitation department, the true purpose and effect of which was to insure preferential treatment for the defendant in the solicitation of traffic, at the expense of Alton.
(e). Alton's tracks and equipment were used by the defendant for its own benefit without payment to Alton of the reasonable value for the use thereof and the defendant had repairs made to its own rolling stock by use of the facilities of Alton and otherwise used Alton's facilities without paying the reasonable value of said use and the services performed;	(c) During said period, the defendant used Alton's tracks and equipment for its own benefit without paying Alton the reasonable value of the use thereof. In addition, the defendant caused repairs to be made to its own rolling stock through the facilities of Alton, and otherwise used Alton's facilities, without paying the reasonable value of said use. . . .
(f). Alton made purchases of equipment, coal and other supplies from shippers using the defendant's lines and thus caused a diversion of substantial income to the defendant's lines and a loss of income to Alton.	(d) During the said period, defendant caused the diversion of purchases of company equipment of coal and other supplies from potential shippers over Alton's lines to potential shippers over defendant's lines and thus severely damaged Alton's business relations with such shippers and reduced Alton's net income. . . .
(g). Alton negotiated new contracts with Western Union Telegraph Company, the Pullman Company and Fruit Growers Express Company, upon terms which benefited the defendant	(e) . . . defendant caused Alton to negotiate new contracts with Western Union Telegraph Company, The Pullman Company and Fruit Growers Express Company containing terms less

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and which caused a diversion of substantial income from Alton to the defendant;	favorable to Alton and more favorable to defendant. . . .
(h). During said period Alton used the rolling stock of the defendant for which Alton paid to the defendant an excessive charge and Alton and the defendant stored Alton's rolling stock on side tracks and permitted said rolling stock to rust and become worthless;	(b) . . . defendant used largely its own rolling stock to meet both its own requirements and the requirements of Alton and defendant neglected to keep Alton's rolling stock, including engines, passenger cars and freight cars, in proper order and repair as required by good railroad practice; instead, defendant stored such rolling stock on side tracks in the open, subject to the action of the elements, and permitted said rolling stock to rust and rot and otherwise deteriorate, and failed to make replacements, so that most of it became useless and valueless.
	. . . By virtue of the defendant's wrongful acts as aforesaid, Alton suffered . . . loss of capital assets and values. . . .
(i). During the years 1940 and 1941, Alton suffered an aggregate net loss of about $2,000,000. and the defendant and Alton filed a consolidated Federal Tax return for said years and in said return offset said loss against the profits of the defendant and thus Alton lost the right to apply said loss against income earned by it in later years;	(f) During the years 1940 and 1941, Alton, as operated by defendant, suffered an aggregate net loss of about $2,000,000. . . . However, defendant filed federal tax returns in respect of the operations of Alton and itself for the years 1940 and 1941 upon a consolidated basis . . . If defendant had not forced Alton to include the results of its operations in consolidated returns, as aforesaid, Alton would have been able and would have received the benefit of such excess profits tax credit and would have . . . saved federal taxes, which it was forced to and did pay. . . .

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(j). During the period aforesaid, defendant and Alton in dividing the revenues upon traffic interchanged between them, allowed the defendant excessive percentages and portions of said revenues and fixed the amounts payable to Alton below the amount justly and reasonably payable therefor.	(g) During said period, the defendant discriminated unfairly against Alton in dividing revenues on traffic interchanged between them in that the defendant retained for itself excessive percentages and portions of said revenues and fixed the amounts payable to Alton below the amounts justly and reasonably due to Alton out of said revenues.
NINTH: That as a result of the acts hereinabove alleged, Alton became insolvent and became unable to meet, pay and discharge its obligations due to its creditors, including the holders of Alton Bonds.	10. On or about April 1, 1941, Alton defaulted in the payment of interest on the Alton Bonds. 11. By November 25, 1942, as a result of the acts of the defendant aforesaid during the prior eleven years, the financial condition of Alton had deteriorated to such an extent that it was unable to function properly as an independently operating railroad. [Total losses alleged in paragraph 8 (App. 31a-34a) in Excess of $30,000,000.]
TENTH: That during the period from January 7th, 1931 to and including November 25th, 1942, the income diverted from Alton and received by the defendant and the other benefits conferred upon the defendant through the use and appropriation to itself of Alton's property and equipment amounted to upwards of $30,000,000	
ELEVENTH: That on or about April 1st, 1941, Alton defaulted in the payment of interest upon the bonds aforementioned and thereafter, the Trustee under the indenture governing said bonds, declared the entire principal amount, namely, $45,350,000, due and payable.	10. On or about April 1, 1941, Alton defaulted in the payment of interest on the Alton Bonds. Pursuant to the terms of the mortgage indenture securing said Bonds, the entire principal amount, namely, $45,350,000, became due and payable, and the same was not paid.

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TWELFTH: That on or about November 25th, 1942, Alton filed petition for reorganization under Section 77 of the Bankruptcy Act, in the United States District Court for the Northern District of Illinois, Eastern Division.

THIRTEENTH: That thereafter, a plan of reorganization was submitted, approved and consented to in the reorganization proceeding aforementioned and on or about May 31st, 1947, said plan was duly confirmed by the District Court for the Northern District of Illinois, Eastern Division.

FOURTEENTH: That the order confirming plan of reorganization aforementioned, provided in part as follows:

"(a) That Alton's assets and properties be transferred to Gulf, Mobile and Ohio Railroad Company (hereinafter called 'Gulf') free and clear of the mortgage securing the Alton Bonds and other claims against Alton, and also that Alton be dissolved.

(b) That Gulf exchange its own bonds and stock for claims held by owners and holders of Alton Bonds as follows; for each $1,000. Alton Bond (principal amount) Gulf issue its own 4% General Mortgage Income Bond, Series B, due 2044, in the sum

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11. . . . defendant . . . caused Alton to file, on or about November 25, 1942, a petition for reorganization under Section 77 of the Bankruptcy Act . . . in the United States District Court for the Northern District of Illinois, Eastern Division. . . .

15. On or about May 31, 1947, following confirmation of a plan of reorganization for Alton in said Reorganization Proceeding, a final order was entered by the Reorganization Court giving effect to and providing for consummation of said plan. . . .

15. On or about May 31, 1947, following confirmation of a plan of reorganization for Alton in said Reorganization Proceeding, a final order was entered by the Reorganization Court giving effect to and providing for consummation of said plan, and directing as follows:

(a) That Alton's assets and properties be transferred to Gulf, Mobile and Ohio Railroad Company (hereinafter called "Gulf") free and clear of the mortgage securing the Alton Bonds and other claims against Alton, and also that Alton be dissolved.

(b) That Gulf exchange its own bonds and stock for claims held by owners and holders of Alton Bonds as follows: for each $1,000. Alton Bond (principal amount) Gulf issue its own 4% General Mortgage Income Bond, Series B, due 2044, in the sum

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of $500 (principal amount) plus seven and one-quarter (7¼) shares of Gulf's no par value common stock.	of $500 (principal amount) plus seven and one-quarter (7¼) shares of Gulf's no par value common stock.
(c) That the rights of owners and holders of Alton Bonds to assert any claim against the defendant be specifically preserved and reserved."	(c) That the rights of owners and holders of Alton Bonds to assert any claim against the defendant be specifically preserved and reserved.
FIFTEENTH: That, in effecting the distribution of securities pursuant to such order and in accordance therewith, the Alton Bonds were not cancelled for all purposes, but were perforated and stamped by the Exchange Agent named in the plan with the following legend:	15. . . . In effecting the distribution of securities pursuant to such order and in accordance therewith, the Alton Bonds were not cancelled for all purposes, but were perforated and stamped by the Exchange Agent named in the plan with the following legend:
"Pursuant to order of United States District Court for the Northern District of Illinois, Eastern Division, entered May 26, 1947, in the matter of the Alton Railroad Company, Debtor, No. 79081. This Bond has been perforated and cancelled for all purposes except for the purpose of evidencing right of the bearer or registered owner to a claim, if any, against the Baltimore and Ohio Railroad Company."	"Pursuant to order of United States District Court for the Northern District of Illinois, Eastern Division, entered May 26, 1947, in the matter of the Alton Railroad Company, Debtor, No. 79081. This Bond has been perforated and cancelled for all purposes except for purpose of evidencing right of the bearer or registered owner to a claim, if any, against the Baltimore and Ohio Railroad Company."
SIXTEENTH: That the fair and reasonable value of the Gulf securities so exchanged for each $1,000. Alton Bond amounted to $375., leaving an unsatisfied claim of $625. plus interest on each $1,000. Alton Bond. In the aggregate, the fair and reasonable value of the new securities so exchanged for the Alton Bonds	16. The fair and reasonable value of the Gulf securities so exchanged for each $1,000. Alton Bond amounted to $375., leaving an unsatisfied claim of $625. plus interest on each $1,000. Alton Bond. In the aggregate, the fair and reasonable value of the new securities so exchanged for the Alton Bonds amounted to

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amounted to $17,006,250., leaving unsatisfied claims of holders of Alton Bonds aggregating $28,343,750. with interest from April 1st, 1941.	$17,006,250., leaving unsatisfied claim of holders of Alton Bonds aggregating $28,343,750., with interest from April 1, 1941.
SEVENTEENTH: That by reason of the foregoing, the plaintiff and all other holders of Alton Bonds have had their claims recognized and fully established but unpaid except to the extent of $375. for each $1,000. of Alton Bonds, and are in the position of creditors who have secured judgments establishing their claims and have issued executions which have been satisfied to the extent of 37½ cents in respect of each dollar of principal amount and otherwise returned unsatisfied.	16. By reason of the foregoing, the plaintiffs and all other holders of Alton Bonds have had their claims recognized and fully established but unpaid except to the extent of $375. for each $1,000. of Alton Bonds, and are in the position of creditors who have secured judgments establishing their claims and have issued executions which have been satisfied to the extent of 37½ cents in respect of each dollar of principal amount and otherwise returned unsatisfied.
EIGHTEENTH: That there remains due and owing to the holders of the bonds aforementioned the sum of $28,343,750., with interest thereon from the first day of April, 1941, which amount the holders of the Alton Bonds could not ascertain and determine until the entry of the order of May 31st, 1947.	19. The damages sustained by the holders of Alton Bonds by reason of the acts of the defendant set forth above are $28,343,750., with interest from April 1, 1941. 23. The facts . . . were not discovered by the plaintiffs or any of them until long after the institution of the Reorganization Proceeding as aforesaid.
NINETEENTH: Plaintiff has no adequate remedy at law.	20. Plaintiffs have no adequate remedy at law.
WHEREFORE, plaintiff prays for judgment as follows:	WHEREFORE, plaintiffs pray judgment as follows:
(a) That it be adjudged that from January 7th, 1931 to and including November 25th, 1942, Alton was an agency and instrumentality of the defendant;	

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	(b) adjudging, decreeing and ordering the defendant to pay to said receiver or custodian a sum not less than $28,343,750., with interest thereon from April 1, 1941 . . .;
(b) That the defendant account (1) for all income diverted from Alton to itself; (2) for all damage suffered by the holders of Alton Bonds by reason of the acts of the defendant from January 7th, 1931 to and including November 25th, 1942; and (3) for all profits made by the defendant by reason of the acts aforesaid;	
(c) That a Receiver be appointed to receive payment of the sums found due from the defendant and to distribute same to the holders of the Alton Bonds;	(a) appointing a receiver or other judicial custodian to receive and distribute the proceeds of this action for the benefit of the holders of Alton Bonds;
(d) That plaintiff be paid all his costs and disbursements of this action, including counsel fees; and	(c) directing said receiver or custodian as to payment of plaintiffs' expense, including counsel fees, and distribution of the balance to the holders of Alton Bonds . . .
	(b) adjudging, decreeing and ordering the defendant to pay . . . costs and disbursements of this action;
(e) That plaintiff have such other and further relief as to this Court may seem just and proper.	(d) directing such other and further relief as may be just and proper.